

CHAPTER 23A

Cable Distribution System

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Sec. 23A-1. Permit required.

The construction, installation, maintenance, use and operation of any commercial system (hereinafter designated *cable distribution system*) for conducting and distributing television picture and sound signals by wire, conduit or cable upon payment of money or other consideration from a user or subscriber from such system shall be unlawful within the City unless a permit for such purpose shall have been first obtained from the City Council. (Ord. 452)

Sec. 23A-2. Use of public ways.

The public streets, alleys, sidewalks or other public ways of the City shall not be used for the purpose of transmitting or conducting television picture or sound signals by cable, conduit or wire; and it shall be unlawful to construct, operate or maintain in, upon, along, across, above, over or under any street, alley, sidewalk or public way, any conduit, cable, pole or wire or any other equipment or apparatus for such purposes; nor shall any conduits, cables, poles or wires or any other equipment or apparatus now existing in the public streets, alleys, sidewalks or other public ways, be so used, unless a permit for such purpose and to so do shall have been first obtained from the City Council. (Ord. 452)

Sec. 23A-3. Revocation of permit, disposition of property.

Any such right, permit or privilege mentioned in Sections 23A-1 and 23A-2 shall be granted upon such terms and conditions as is hereinafter provided and upon such additional terms as may be determined by the City Council at the time of granting such permit, and the same shall be subject to revocation by the City Council, at its pleasure and discretion at any time. In the event of such revocation or other termination of such permit, the City shall have the right to purchase all the property of any permittee used under and in connection with its permit, together with all goodwill, rights and appurtenances of the permittee, at the fair market value at the time of purchase. In the event of such revocation or termination of such permit and the City does not elect to purchase the permittee's property, the permittee shall, at the request of the City, at its own expense and within a reasonable time as determined by the City Council, remove any poles, wires, cable and related appurtenances constructed or installed and shall leave the streets and public ways in as good condition as they were prior to such installations. (Ord. 452)

Sec. 23A-4. Nonexclusive rights.

Any right granted a permittee under the provisions of this Chapter to use the streets and public ways of the City and conduct its business in the City shall be nonexclusive and the City shall reserve the right to grant a similar use or uses in such streets and public ways and authorize additional cable system business in the City. (Ord. 452)

Sec. 23A-5. Construction.

Any poles, wires, cable, lines, vaults, conductors, installations or facilities which are, at any time hereafter, to be constructed or installed in the City shall be so constructed or installed only at such locations and in such manner as approved by the City or its authorized representative. In those areas of the City where public utility lines are underground or thereafter may be placed underground, the permittee shall likewise construct, install and operate all its lines, cables and other facilities underground. Any streets or sidewalks damaged or disturbed in the construction or operation of a permittee's poles, cables and other installations shall be promptly repaired and

restored by the permittee at its expense and to the satisfaction of the City. If the City elects to change the grade of any street or public way, to vacate or otherwise alter the same, the permittee shall relocate its poles and other installations at its expense. (Ord. 452)

Sec. 23A-6. Availability of service.

A designated permittee's system and its services shall be made available in every part of the City except in those areas, if any, where it appears that there are not sufficient potential users to make the installation and operation of the system economically feasible; provided that the City Council, upon complaint that service is not furnished, may determine whether or not it is feasible and proper to furnish such service in the area wherein requested. If the City Council determines that it is so feasible in any area, the designated permittee shall forthwith supply its services to such area. A permittee shall maintain an office in the City and provide a maintenance and repair service readily available through telephone or other means in the City to its subscribers. A permittee shall not discriminate between persons or areas and its service shall be equally available. (Ord. 452)

Sec. 23A-7. Pay T.V. not authorized.

Nothing in this Chapter or any permit granted under the provisions of this Chapter shall be construed to authorize services presently known as *Pay T.V.* (Ord. 452)

Sec. 23A-8. Rates and charges.

The charges made by the permittee for its services, including installation, repair, removal and monthly service charges, shall be uniform for the same or similar services and shall be according to rates approved by the City Council. No rate shall be increased or decreased without approval of the City Council to so do. (Ord. 452)

Sec. 23A-9. Noninterference with direct broadcast.

The permittee shall operate its system so as not to interfere with the direct broadcast or reception of other signals, whether television, radio, telephone or telegraph signals. In the delivery of programs the permittee shall not delete the commercials of the program sponsor, nor shall it interrupt any programs or parts thereof and substitute commercials or advertisements for those of such program sponsor. (Ord. 452)

Sec. 23A-10. Permit nontransferable.

Any permit or privileges provided for in this Chapter shall be personal to the permittee and it cannot be sold, transferred, leased, assigned and disposed of, in whole or in part, either by voluntary or involuntary proceedings, without the consent of the City Council expressed by resolution of the City Council upon such conditions as it may prescribe, except such consent shall not be unreasonably withheld. (Ord. 452)

Sec. 23A-11. Performance bond required.

Any such permittee shall, concurrently with acceptance of a permit provided for in this Chapter, obtain at its expense and file with the City Clerk a corporate surety bond, by a company approved, by, and in form approved by, the City, in the amount of twenty-five thousand dollars (\$25,000.00) renewable annually or deposit with the City cash or United States

bonds in the amount of twenty-five thousand dollars (\$25,000.00), the permittee to receive all interest therefrom and conditioned upon and for the faithful performance by the permittee of all of the conditions in and requirements and obligations imposed upon the permittee by the provisions of this Chapter and the permit granted and for compliance with all the provisions thereof. The bond shall contain a provision that thirty (30) days' written notice of intention not to renew or to cancel, or of other material change, shall be given to the City. (Ord. 452)

Sec. 23A-12. Indemnification of City, insurance.

Any permittee shall, at its own expense, defend all suits that may be brought against the City on account of the operations and business of the permittee or the construction or operation of its system and infringement of copyrights, patents or like violations and shall keep harmless the City from any and all liability, damages, judgments, costs and expenses of every kind growing out of or connected with such business and installation or operation of the system, and the permittee as further assurance to the City shall, during the existence of the permit granted the permittee under this Chapter, furnish the City with proper evidence of liability insurance coverage with an approved company insuring both the permittee and City against claims, demands or losses for injury to persons or damage to property resulting from or connected with the construction, operation or maintenance of the system and business within the City. The insurance shall have limitations in not less than three hundred thousand dollars (\$300,000.00) for injury or damages occurring to one (1) person in one (1) occurrence and not less than five hundred thousand dollars (\$500,000.00) for injury or damages occurring to more than one (1) person in the same occurrence and not less than one hundred thousand dollars (\$100,000.00) for damage to property in one (1) occurrence. (Ord. 452)

Sec. 23A-13. Installation without permit unlawful.

Installation, operation or maintenance of a cable distribution system within the City without first obtaining a permit therefor as herein provided, shall be unlawful and shall subject the violator to the penalty hereinafter provided. (Ord. 452)

Sec. 23A-14. Penalties; remedies.

(a) Any person, whether as principal, agent, employee or otherwise, violating the provisions of this Chapter shall, upon conviction thereof, be punished by fine of not more than three hundred dollars (\$300.00) or imprisonment in jail for a term not exceeding ninety (90) days, or by both such fine and imprisonment.

(b) Each day of any violation shall be deemed a separate offense.

(c) The remedy provided herein shall be cumulative and not exclusive and shall be in addition to any other remedy provided by law, including, without limitation, that of injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any condition or facilities or equipment constituting the violation. (Ord. 452)

Sec. 23A-15. Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this Chapter should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Chapter which shall remain in full force and effect; and to this end the provisions of this Chapter are hereby declared to be severable. (Ord. 452)

